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CLARE E. CONNORS and
AL CUMMINGS, in their official capacities

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ANDREW TETER and
JAMES GRELL,

Plaintiffs,

v.

CLARE E. CONNORS, in her
Official Capacity as the Attorney
General of the State of Hawaii, and
AL CUMMINGS, in his Official
Capacity as the State Sheriff Division
Administrator,

Defendants.

Civil No. CV19-00183-ACK-WRP

DEFENDANTS CLARE E. CONNORS
AND AL CUMMINGS', IN THEIR
OFFICIAL CAPACITIES, SEPARATE
CONCISE STATEMENT OF
MATERIAL FACTS IN OPPOSITION
TO PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT [ECF No.
33]; DECLARATION OF RYAN M.
AKAMINE; EXHIBITS "A"- "T";
CERTIFICATE OF SERVICE

Judge: Honorable Alan C. Kay
Trial: June 16, 2020 at 9:00 AM
Hearing: April 28, 2020 at 11:00 AM

DEFENDANTS CLARE E. CONNORS AND AL CUMMINGS', IN THEIR
OFFICIAL CAPACITIES, SEPARATE CONCISE STATEMENT OF
MATERIAL FACTS IN OPPOSITION TO PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT [ECF No. 33]

Defendants CLARE E. CONNORS, in her official capacity as the Attorney General of the State of Hawaii, and AL CUMMINGS, in his official capacity as the State Sheriff Division Administrator, by and through their attorneys Clare E. Connors, Attorney General, and Caron M. Inagaki and Ryan M. Akamine, Deputy Attorneys General, pursuant to Local Rule 56.1, state the following material facts for the Court's determination of the issues presented on summary judgment:

Plaintiffs' Statements of Material Facts

No.	Response	Plaintiffs' Facts and Comments
1	Deny	"Plaintiff Andrew Teter is [sic] adult male residents of the State of Hawaii." Defendants are without knowledge.
2	Deny	"Plaintiff Teter has never been convicted of a crime which would dispossess him of his Second Amendment rights; has never been convicted of a felony; has never been convicted of a misdemeanor crime of domestic violence and is not prohibited from owning firearms." Defendants are without knowledge.
3	Deny	"Plaintiff Teter has not been deemed to have a mental illness from any mental health professional." Defendants are without knowledge.
4	Deny	"Plaintiff Teter does not use illegal drugs or abuse alcohol." Defendants are without knowledge.
5	Deny	"Plaintiff Teter wants to purchase, own, possess and carry butterfly knife for self-defense outside and inside his home." Defendants are without knowledge.
6	Admit	"Under current Hawaii law, Plaintiff Teter cannot possess, own, or carry a butterfly knife."

7	Deny	<p>“Plaintiff James Grell is adult Dec. of James Grell is adult male residents of the State of Hawaii.”</p> <p>Defendants are without knowledge of this allegation.</p>
8.	Deny	<p>“Plaintiff Grell has never been convicted of a crime which would dispossess him of his Second Amendment rights; has never been convicted of a felony; has never been convicted of a misdemeanor crime of domestic violence and is not prohibited from owning firearms.”</p> <p>Defendants are without knowledge of this allegation.</p>
9.	Deny	<p>“Plaintiff Grell has not been deemed to have a mental illness from any mental health professional.”</p> <p>Defendants are without knowledge of this allegation.</p>
10.	Deny	<p>“Plaintiff Grell does not use illegal drugs or abuse alcohol.”</p> <p>Defendants are without knowledge of this allegation.</p>
11.	Deny	<p>“Plaintiff Grell wants to purchase, own, possess and carry butterfly knife for self-defense outside and inside his home.”</p> <p>Defendants are without knowledge of this allegation.</p>
12.	Admit	<p>“Under current Hawaii law, Plaintiff Grell cannot possess own, or carry a butterfly knife.”</p>
13.	Deny	<p>“Burton Richardson is an expert on the butterfly knife and knife fighting due to decades of training with knives and martial arts.”</p> <p>Defendants are without knowledge of this allegation.</p>
14.	Deny	<p>“A butterfly knife opens more slowly than a modern pocket knife.”</p> <p>Defendants are without knowledge of this allegation.</p> <p>The allegation is vague and overbroad, as there are many types and sizes of pocket knives.</p>
15.	Deny	<p>“Butterfly knives open more slowly than a switchblade knife.”</p> <p>Defendants are without knowledge of this allegation.</p>
16.	Deny	<p>“Butterfly knives were invented in the Philippines.”</p> <p><i>See Knives Deal</i>, https://www.knivesdeal.com/the-balisong-knife-here-is-everything-you-need-to-know,. <i>See also Blade Magazine</i>, https://blademag.com/knife-history/history-the-disputed-origins-of-the-butterfly-knife (last visited January 15, 2020). <i>See attached Exhibit</i></p>

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17.	Deny	<p>“A butterfly knife is designed to be used by a single person, either for self-defense or offense.”</p> <p>Defendants are without knowledge of this allegation, as it relates to whether a butterfly knife is “designed” for self defense.</p>
18.	Deny	<p>“A knife is less dangerous than a handgun.”</p> <p>Defendants believe and state that this statement is dependant upon any given factual circumstance.</p>
19.	Admit	<p>“Lt. Nagamine testified that an arm could be anything “[i]f it's something that could be used as a weapon to harm others – it could be a stick.””</p>
20.	Partially admit.	<p>“Butterfly knives are illegal only in Hawaii, New Mexico and the state of Washington.”</p> <p>See “[B]utterfly” knife is within statutory definition of switchblade knife.” <i>People v. Ontiveros</i>, No. B256147, 2015 WL 2148952, at *9 (Cal. Ct. App. May 7, 2015); Carrying a balisong constituted offense of carrying a dangerous weapon for which juvenile could be adjudicated delinquent. <i>In re F.A.B.</i>, App.2004, 682 N.W.2d 82, 2004 WL 434008, Unreported.</p>

Defendants’ Statements of Material Facts

<u>FACTS</u>	<u>EVIDENTIARY SUPPORT</u>
1. Plaintiffs filed their complaint on April 10, 2019.	<i>See</i> ECF 1.
2. Butterfly knives are banned in Hawaii pursuant to state law. See H.R.S. § 134-53.	<i>See</i> ECF No. 1, paragraph 52.
3. Plaintiffs challenge the constitutional validity and enforcement of H.R.S. § 134-53.	<i>See</i> ECF 1.
4. Defendants deny that Plaintiffs' rights under the Second Amendment or 42 U.S.C. § 1983 are being violated, deny that Plaintiffs are entitled to preliminary and injunctive relief, and deny that Plaintiffs are entitled to a declaratory ruling by the court.	<i>See</i> ECF No. 17, paragraph 17.

5. Defendants deny that Plaintiffs are entitled to declaratory relief, or that there is a substantial likelihood that Plaintiffs will suffer irreparable injury in the future, and deny all remaining allegations contained therein.	<i>See</i> ECF No. 17, paragraph 18.
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Dated: Honolulu, Hawaii, April 7, 2020.

STATE OF HAWAII

CLARE E. CONNORS
Attorney General of Hawaii

/s/ Ryan M. Akamine

CARON M. INAGAKI
RYAN M. AKAMINE
Deputy Attorneys General

Attorneys for Defendants
CLARE E. CONNORS and
AL CUMMINGS, in their official
capacities